

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TAMARA MOORE, et al.,

Plaintiffs,

v.

MARS PETCARE US, INC., et al.,

Defendants.

Case No. [16-cv-07001-MMC](#)

**ORDER DENYING IN PART
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

Before the Court are defendant Royal Canin U.S.A., Inc.'s ("Royal Canin") motion, filed December 19, 2022, "for Summary Judgment on Plaintiff Greta Ervin's Claims" (see Dkt. No. 222), and Mars Petcare U.S., Inc.'s ("Mars Petcare") motion, filed December 19, 2022, "for Summary Judgment on Plaintiff Renee Edgren's Claims" (see Dkt. No. 223). Plaintiffs have filed opposition, to which defendants have replied. The matter came on regularly for hearing on March 24, 2023. Kimberly Johnson appeared on behalf of plaintiffs. Joseph Bushur and Campbell Curry-Ledbetter appeared on behalf of defendants. The Court, for the reasons stated in detail on the record at the hearing, finds as follows:

A. Misrepresentation

1. A triable issue exists as to whether a misrepresentation was made to Ervin. (See, e.g., Decl. of Joseph Bushur in Supp. of Royal Canin's Mot. for Summ. J., Ex. A ("Ervin Dep.") at 15:22-24, 123:12-14 (Dkt. No. 222-2); Ex. F at 60:4-13 (Dkt. No. 222-7).)
2. A triable issue exists as to whether a misrepresentation was made to Edgren. (See, e.g., Decl. of Joseph Bushur in Supp. of Mars Petcare's Mot.

for Summ. J., Ex. A (“Edgren Dep.”) at 28:21-25, 56:24-57:2, 63:12-13, 117:13-18 (Dkt. No. 223-2).)

B. Reliance

1. A triable issue exists as to whether Ervin relied on such misrepresentation. (See, e.g., Ervin Dep. at 70:4-7, 71:16.)
2. A triable issue exists as to whether Edgren relied on such misrepresentation. (See, e.g., Edgren Dep. at 20:9-11, 102:25-103:7, 131:25-132:1, 132:21-25.)

C. Attribution


1. A triable issue exists as to whether such misrepresentation is attributable to Royal Canin. (See, e.g., Decl. of Matthew D. Davis in Supp. of Opp. to Royal Canin’s Mot. For Summ. J., Ex. A; Ex. B at 17:17-20; Ex. C; Ex. D at ¶ 4.C (Dkt. No. 228-5).)
2. A triable issue exists as to whether such misrepresentation is attributable to Mars Petcare. (See, e.g., Decl. of Matthew D. Davis in Supp. of Opp. to Mars Petcare’s Mot. for Summ. J., Ex. A at 97:20-98:3; Ex. C; Ex. D (Dkt. No. 226-5).)

D. Injunctive Relief

As to the question of available relief, the Court defers ruling pending submission of the parties’ supplemental briefing thereon.

IT IS SO ORDERED.

Dated: March 28, 2023


MAXINE M. CHESNEY
United States District Judge